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Patent

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions and listings of claims in the application:

Listing of Claims:

Claim 3 (currently amended) An immunocontraceptive vaccine immunogenic composition for male or female subject, which comprises comprising an antigenic amount of P34 protein encoded by nucleic acid having sequence of SEQ ID NO: 3 or an antigenic fragment thereof wherein the fragment consisting of or an amino acid fragment having sequence selected from the group consisting of SEQ ID NO: 4 and 5 and in association with a suitable pharmaceutically acceptable carrier, wherein said vaccine for eliciting elicits an immunocontraception an immune response against said protein or fragment after administration by said to a male or female subject after its administration.

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REMARKS

Claim 3 is pending in the application.

Rejection under 35 U.S.C. 112, first paragraph

With respect to the rejection of claim 3 under 35 U.S.C. 112, first paragraph, reconsideration by the Examiner is respectfully requested on the following grounds.

Claim 3 was amended to read "an immunogenic composition" comprising antigenic fragments described in the application to comply with 35 U.S.C. 112, first paragraph. It can now be read that the immunogenic potential of antigenic fragments is directed against fragments and proteins described in the application, namely P34 protein encoded by SEQ ID NO: 3 and fragments having amino-acid sequences consisting of SEQ ID NO: 4 and SEQ ID NO: 5, in place of proteins being members of the short chain dehydrogenase-reductase family.

Claim 3 has been rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Reconsideration is respectfully requested on the following grounds.

As amended, claim 3 now discloses an immunogenic composition rather than an immunocontraceptive vaccine for a male or a female. The notion of immunocontraception and vaccine were deleted from claim 3.

It is well recognized in the art that the fact that a claim discloses a nucleic acid sequence, normally implies that a protein can be encoded therefrom by using different recombinant approaches available in the art. Therefore, the use of this protein without providing a detailed description of its amino acid sequence, can be inferred to or deduced from said nucleic acid sequence. Such situation has been admitted and allowed in US Patent 5,989,549 cited in a previous Office Action issued in the present application. Hence, the fact that a protein, namely

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P34, is encoded by the nucleic acid sequence of SEQ ID NO: 3 described in the present application, implies that recombinant techniques or methods, for its production can be relatively easy to perform for someone skilled in the art, allowing therefore to obtain it under its protein forms. In this context, a composition comprising a protein encoded by disclosed nucleic acid sequence SEQ ID NO: 3, is not believed not to constitute new matter, as it is the case in US Patent No. 5,989,549 cited in a previous Office Action. Hence, no new matter has been added in the currently amended claim 3.

**Rejection under 35 U.S.C. 112, second paragraph**

In order to comply with 35 U.S.C. 112, second paragraph, claim 3 has been amended by deleting the expression "in association with" and replaced by the word "and" as suggested by the Examiner.

It is submitted, therefore, that the claim is in condition for allowance. Reconsideration of the rejections is respectfully requested by the Applicant. Allowance claim 3 at an early date is solicited.

In the event that there are any questions concerning this amendment or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

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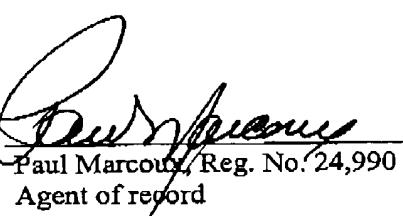
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Respectfully submitted,

Date: October 7, 2003

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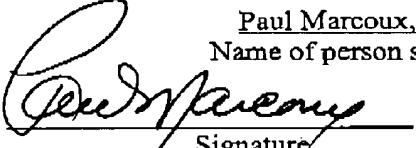
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Enclosures: Marked-up amended claim 3

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3. (currently amended) An immunocontraceptive vaccine immunogenic composition for male or female subject, which comprises comprising an antigenic amount of P34 protein encoded by nucleic acid having sequence of SEQ ID NO:3 or an antigenic fragment thereof wherein the fragment consisting of or an amino acid fragment having sequence selected from the group consisting of SEQ ID NO:4 and 5 and in association with a suitable pharmaceutically acceptable carrier, wherein said vaccine for eliciting elicits an immunocontraception an immune response against said protein or fragment after administration by said to a male or female subject after its administration.

3. (currently amended) An immunogenic composition comprising an antigenic protein encoded by nucleic acid having sequence of SEQ ID NO:3 or an amino acid fragment having sequence selected from the group consisting of SEQ ID NO:4 and 5, and a suitable pharmaceutically acceptable carrier for eliciting an immune response against said protein or fragment after administration to a male or female subject.